

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
Joint Application by BellSouth	)	
Corporation, BellSouth	)	
Telecommunications, Inc. and	)	CC Docket No. 02-35
BellSouth Long Distance, Inc.	)	
for Provision of In-Region,	)	
InterLATA Services in Georgia	)	
and Louisiana	)	

**REPLY COMMENTS OF BIRCH TELECOM OF THE SOUTH, INC.**

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Birch Telecom of the South, Inc. (“Birch”) files these reply comments pursuant to the Public Notice (DA 02-337) issued February 14, 2002, seeking comment on BellSouth’s application for Section 271 in-region long distance authority for Georgia and Louisiana (“Application”). Birch respectfully requests that its initial and reply comments and subsequent ex parte documents, previously filed in CC Docket No. 01-277, be incorporated herein by reference.

**I. INTRODUCTION**

As Birch reported in its initial comments in this proceeding, BellSouth has shown some improvements over its initial Application. However, the improvements have occurred over a short period of time and there is no real record of consistency or proof of sustainability with respect to any improvement made. Birch has experienced a great deal of partnership with BellSouth during the period of time between the withdrawal of its initial Application and the present. Birch appreciates these steps taken by BellSouth but is skeptical about its continued commitment to issue resolution in a post-271 environment. Without it, as evidenced in many filings made by Birch in BellSouth’s initial Application and its initial comments herein, a viable operational framework within which to build a

competitive business, will be non-existent. It is therefore imperative that this Commission assure itself that BellSouth performs to same or similar levels required of other RBOCs that have been granted 271 approval, and that a record of such consistent performance supports an approval in this instance.

## **II. SERVICE ORDER ACCURACY**

### **A. BellSouth's Unilateral Change in the SOA Measurement**

In its initial comments filed in this proceeding, Birch took issue with the fact that BellSouth unilaterally changed the Service Order Accuracy measurement, contrary to the collaborative review process established by the Georgia Public Service Commission. In addition, Birch brought to light the fact that, beginning with the collection of the November data, BellSouth began to include fully mechanized UNE-P orders into the base of sampled orders that comprise the data upon which the Service Order Accuracy performance results are calculated. Not surprisingly, when BellSouth expanded the universe of sampled orders to include orders (fully mechanized) that would never, by design, require manual handling, BellSouth has reported consistent improvement in the area of Service Order Accuracy. However, when all pieces of this puzzle are put together, Birch asserts that BellSouth's Service Order Accuracy results for Birch have really not improved to any great degree, or with any hope of sustainability.

### **B. BellSouth's March 15 *Ex Parte***

On March 15, 2002, BellSouth filed an *Ex Parte* that included the materials it had presented to the Department of Justice, the purpose of which was to primarily address Birch's initial comments regarding the Service Order Accuracy measurement changes. BellSouth attacks Birch's conclusions that the inclusion of fully mechanized orders into the base of sampled orders for Service Order Accuracy irreparably skew the data sample as such

orders should rarely, if ever, contain internal service order errors.<sup>1</sup> BellSouth attempts to render Birch's "accusations" without merit, as BellSouth claims that its Service Order Accuracy measure "has always included fully mechanized orders."<sup>2</sup> BellSouth attempts to explain this major discrepancy by revealing that it did not realize until late 2001 that fully mechanized UNE-P orders had been excluded from the Service Order Accuracy samples for performance measurement purposes. Further, BellSouth indicates that it corrected this error by including fully mechanized UNE-P orders in the sample used to calculate the Service Order Accuracy results beginning in November 2001.

BellSouth continues its attempt to justify the "inclusion of the fully mechanized orders" issue by referencing a Birch filing in the performance measurement docket (Docket No. 7892-U) with the Georgia Public Service Commission. BellSouth asserts that "Birch is fully aware that the current Service Order Accuracy measure has always included fully mechanized orders, which is clear from comments filed by Birch in connection with the Georgia performance measurement workshops in Docket 7892-U."<sup>3</sup> BellSouth specifically points to Birch's request to change the Service Order Accuracy measure to include only partially mechanized and manual service orders within the base of sampled orders. In addition, BellSouth represents that the purpose for Birch's requested change "was to remove fully mechanized orders from the sampling process, because "[t]he inclusion of mechanically handled service orders greatly reduces the value of the measurement."<sup>4</sup> BellSouth concludes

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<sup>1</sup> BellSouth *Ex Parte*, at p. 1 of "Inclusion of Mechanized Orders in Service Order Accuracy Measure March 15, 2002.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* citing to Birch Telecom of the South Proposed Changes to the Georgia SQM, at 11, September 10, 2001.

its analysis by indicating that “there would have been no need to remove fully mechanized orders from the measure if fully mechanized orders were not included in the measure in the first place, as Birch now contends.”<sup>5</sup>

**C. BellSouth’s Internal “Disconnect” Regarding SOA**

As Birch believes it is in the best position to comment on the intent of any of its pleadings filed with any regulatory body, it will respond to BellSouth’s erroneous assertions here, and provide the Commission the rest of the story. Birch’s September 10, 2001 filing made in the performance measurement docket in Georgia indeed contained a request to change the Service Order Accuracy measure to limit the base of sampled orders to only partially mechanized and manual service orders. The purpose of Birch’s change however, contrary to BellSouth’s assertions, was to clarify the Business Rule associated with the Service Order Accuracy measure. As written, the Business Rule is vague in its expression of which orders are to be included in the base of sampled orders to calculate performance results for the Service Order Accuracy measure. In fact, Birch recognized an apparent “disconnect” between what BellSouth’s policy dictated for the Service Order Accuracy measure, and how the associated Business Rule had actually been implemented by BellSouth. That is, from a policy standpoint, BellSouth apparently intended for fully mechanized orders to be included within the order sample. However, based on the actual poor results reported by BellSouth<sup>6</sup> and experienced by CLECs, it was clear that fully mechanized orders were being excluded from the base of sampled orders.

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<sup>5</sup> *Id.*

<sup>6</sup> The following represent BellSouth’s Service Order Accuracy results for the months of June-September 2001 for UNE Non Design < 10 Circuits, Non-Dispatch: June: 76.92%, July: 70.69%, August: 64.36%, September: 79.33%, October: 90.48%.

Thus, Birch's September 10, 2001 filing in Georgia was an attempt to clarify a vague Business Rule and to bridge the disconnect between BellSouth's apparent policy and its actual implementation of the Business Rule for the Service Order Accuracy measure. Birch's goal was to ensure that BellSouth would only include partially mechanized and manual service orders in its order sample for the measure – the only way that a Service Order Accuracy measure is rendered meaningful.

The BellSouth policy versus implementation disconnect regarding the Service Order Accuracy measure was further illuminated in its December 7, 2001 letter filed with the Georgia Public Service Commission in the performance measurements docket.<sup>7</sup> The letter was filed in response to requests at the performance measurements workshops held in Georgia, as well as to an electronic mail transmission request by T.J. Sauder, Birch's Manager of ILEC Performance Data. The letter contains a listing of the products that are measured within the Service Order Accuracy measurement. Noticeably absent from the list is "UNE Loop + Port Combinations – Fully Mech" orders.<sup>8</sup> If BellSouth began to include fully mechanized orders within the sample for the November 2001 data, as BellSouth's March 15 *Ex Parte* asserts, then it is indefensible for BellSouth to have made such a glaring omission from its December 7 Georgia filing, given the fact that the measurement change for the November data would have already been made prior to December 7, with reporting due on December 21, 2001. Additionally this omission is particularly strange, given the emphasis placed on its Service Order Accuracy problems throughout its initial Application with this Commission. These inconsistencies by BellSouth continue to beg the question of whether BellSouth has been truthful to the Department of Justice and this Commission regarding the

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<sup>7</sup> See Attachment A.

Service Order Accuracy measurement and its alleged improved performance thereunder. Regardless, based on its own close examination of the data and the issues surrounding this measure, it is obvious to Birch that the Service Order Accuracy measurement results presented from November 2001 forward in no way represents BellSouth's actual performance relative to the achieved level of accuracy for orders that are inputted by BellSouth.

**D. Inclusion of Fully Mechanized Orders Skews the Sample**

As Birch asserted in its initial comments filed herein, the inclusion of fully mechanized orders into the base of sampled orders used to calculate Service Order Accuracy performance, completely skews the sample. Birch recognizes that this Commission is fully aware of the differences between fully mechanized and partially mechanized orders. There is no doubt, then, that the Commission would agree with Birch that any Service Order Accuracy measurement, in order to accurately measure an RBOC's performance related to the production of re-typed internal service orders, would only include those orders that exclusively require the use of internal service orders, or partially mechanized and manual service orders. Birch maintains its prior assertion that BellSouth began to include fully mechanized orders into its base of sampled orders in November 2001 to effectively skew the sample and artificially inflate its performance results for Service Order Accuracy. As a result of expanding the universe of orders sampled to include fully mechanized UNE-P, BellSouth's manipulation of the Service Order Accuracy measurement ensures that it will likely never miss the performance benchmark. Birch strongly contends that BellSouth's Service Order Accuracy adjustments are only self-serving and do nothing to measure BellSouth's true performance with respect to its production of internal service orders.

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<sup>8</sup> In fact, the only product referenced that includes a "Partially Mech" designation is "UNE Loop +



BellSouth's inclusion of fully mechanized orders into the base of sampled orders for Service Order Accuracy is contrary to the methodology employed by SBC Communications, Inc. ("SBC") in its five Southwestern Bell Telephone Company ("SWBT") states, all states in which SBC has gained 271 approval. Specifically, the Service Order Accuracy measurement adopted by the Public Utility Commission of Texas, and subsequently exported to and utilized in Kansas, Oklahoma, Missouri and Arkansas, does not include fully mechanized orders in the base of orders used to calculate SWBT's performance under the measurement. Specifically, Performance Measurement 12.1 ("PM 12.1") is entitled "Percent Provisioning Accuracy for Non- Flow Through Orders." The title alone indicates that the purpose of the measurement is to measure SWBT's performance in accurately provisioning orders that do no flow through SWBT's systems, or partially mechanized orders by definition. In addition, the Business Rule associated with PM 12.1 states:

This measurement compares all fields listed in Attachment 5 as submitted on the LSR to the associated service order that provisioned the requested services. SWBT commits to make a good faith effort to maintain the list in Attachment 5 with any new fields that can be compared mechanically (e.g. features, PIC, etc.) when those fields have a legitimate impact on the customer.<sup>9</sup>

It is clear from the Business Rule that SWBT's intent with respect to the Service Order Accuracy measure is to measure its accuracy in re-typing internal service orders for partially mechanized orders, to ensure that a CLEC customer is provisioned accurately and as requested by the CLEC originally on the LSR. Thus, it would be pointless for SWBT to include fully mechanized orders into its analysis as no internal service orders would ever be generated for orders that flow through SWBT's systems, or fully mechanized orders.

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<sup>9</sup> Port Combinations," or UNE-P.  
See Appendix Performance Measurements Business Rules (Version 2.0), Texas 271 Agreement (T2A), p. 27, June 15, 2001.

Birch therefore respectfully requests that the Commission address BellSouth's inclusion of fully mechanized orders into its base of sampled orders used to calculate its performance under the Service Order Accuracy measurement and require BellSouth to exclude the same until the Georgia Performance Measurement review change can be implemented, a change that excludes fully mechanized orders and one to which BellSouth has agreed. Birch submits that without this critical change in methodology, BellSouth will never improve its Service Order Accuracy performance and therefore be allowed to inaccurately provision CLEC orders on a routine basis, absent extraordinary measures taken by Birch to prevent the same.<sup>10</sup> The undeniable result is discriminatory treatment of CLEC orders.

**E. Birch Internal Service Order Accuracy Audits**

In its initial comments filed herein, Birch reported the results of Joint Quality Assurance efforts undertaken by Birch and BellSouth to monitor actual Service Order Accuracy error rates experienced by Birch. As a result of steps implemented by BellSouth to assist in the Joint Quality Assurance efforts, Birch reported improved service order error rates of between 2% and 16%, in contrast to the nearly 30% experienced and reported by Birch in BellSouth's initial Application in CC Docket No. 01-277. Birch also revealed that BellSouth indicated it was reviewing 100% of internal service orders generated for Birch orders processed. Although pleased with the progress it has experienced in the Service Order Accuracy arena, Birch commented that the process in place by BellSouth was not scalable nor was it a global solution to BellSouth's problems, as this was a Birch-only process at this point.

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<sup>10</sup> See Initial and Reply Comments of Birch Telecom of the South, Inc. in CC Docket No. 01-277.

It is important to note that the dates chosen on which to conduct the Joint Quality Assurance tests were predetermined, allowing BellSouth an opportunity to ensure that it was completely prepared with necessary resources to conduct the tests. As Birch had experience with the exact same service order accuracy problem with SWBT in Texas,<sup>11</sup> Birch knew the value of undergoing random audits to clearly ascertain true performance and progress, which would hopefully lead to a sustainable solution. As a result of its experience in Texas, Birch decided to undertake random service order accuracy audits, independent of BellSouth. The results, attached,<sup>12</sup> show a BellSouth daily service order error rate of between 5% and 20%, with an average of 10.56%. While Birch admits an improvement over its previously reported error rates of nearly 30%, the independent audit error rates are extremely troubling as BellSouth is presumably still reviewing 100% of internal service orders generated for Birch orders for accuracy.<sup>13</sup>

Again, of primary concern to Birch with respect to the Service Order Accuracy results is the fact that to date, BellSouth has not implemented a sustainable solution to its service order accuracy woes. In the absence of increased mechanization, the optimal solution, BellSouth's manual efforts, which are due to taper off in the near future,<sup>14</sup> are only a "quick fix" to a lingering problem. The lack of a sustainable solution to BellSouth's

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<sup>11</sup> See *Informal Dispute Resolution for Issues Relating to Operational Support Systems*, Second Informal Complaint of Birch Telecom of Texas, Ltd., L.L.P., Project No. 21000, June 26, 2000.

<sup>12</sup> Attachments B contains the results of the independent Service Order Accuracy audits conducted by Birch.

<sup>13</sup> BellSouth has made no indication to Birch that it has stopped reviewing 100% of Birch's orders, although it does call into question whether BellSouth only reviews 100% of Birch's orders on predetermined joint audit days.

In addition, and consistent with the methodology used during Joint Quality Assurance efforts, although multiple errors may occur on a single service order, Birch only accounted for a single error.

<sup>14</sup> See Comments of Birch Telecom of the South, Inc. at p. 8.

Service Order Accuracy problem is exacerbated by the inclusion of fully mechanized orders into the base of sampled orders for the measurement as BellSouth has clearly positioned itself to likely never fail the associated benchmark. It is not by accident that BellSouth had never met the Service Order Accuracy benchmark until it retooled the measurement beginning with the November 2001 data. Only by expanding the universe of sampled orders to include the large population of fully mechanized orders is BellSouth able to show “improved” Service Order Accuracy performance. The Commission must recognize BellSouth’s self-serving tactics with respect to this very critical measure and must not permit BellSouth to manipulate an otherwise accurate representation of its performance by simply structuring its performance measurements in a manner in which BellSouth will never fail them.

### **III. CONCLUSION**

It is clearly in this Commission’s hands to decide whether or not BellSouth has fully met the 14-point checklist provided for in the Federal Act. Birch has expended a great deal of resources for a company its size to illustrate BellSouth’s shortfalls to the Commission, both in its initial Application and with respect to the instant Application. But Birch did not only point out BellSouth’s shortfalls, but more importantly their impact to Birch. The continued impact, if not redressed in a pre-271 environment, is what troubles Birch the most. A high degree of manual intervention by BellSouth on Birch orders is inexcusable six years after the passage of the Act. Many of BellSouth’s operational deficiencies can be rectified through a commitment by BellSouth combined with encouragement from this Commission and empirical oversight by state commissions. Birch submits that once BellSouth gains 271 approval, its efforts to improve operationally will subside. Birch urges the Commission to recognize the impact it can have on affecting BellSouth change in a pre-

271 environment, and mandate such change before it is too late to do so in a post-271 environment.

WHEREFORE, Birch Telecom of the South, Inc. respectfully requests the Commission consider Birch's comments herein in the deliberation of this matter.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of March, 2002, a copy of the foregoing Reply Comments of Birch Telecom of the South, Inc.'s on the Joint Application By BellSouth Corporation et al. for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Services in the States of Georgia and Louisiana was served on each of the following by United States Mail, first class postage prepaid, or hand delivery as indicated:

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